

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Kulig	Team: Team # 5	CCRB Case #: 201303672	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 04/26/2013 11:15 PM	Location of Incident: § 87(2)(b)	Precinct: 114	18 Mo. SOL 10/26/2014	EO SOL 10/26/2014	
Date/Time CV Reported Sat, 04/27/2013 12:01 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 05/03/2013 12:22 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Neil Zuber	00000	931483	PSA 9
2. POF Lisaura Skladel	23364	941080	PSA 9

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kelvin Lopez	01671	947187	PSA 9
2. POM Ricardo Moreno	25829	939077	PSA 9
3. POM Anthony Coppola	20215	945166	PSA 9
4. POM Michael Scally	05741	948132	PSA 9
5. POM Ganesh Persaud	10796	949478	PSA 9
6. POF Norma Vera	07143	947954	PSA 9

Officer(s)	Allegation	Investigator Recommendation
A.POF Lisaura Skladel	Abuse: PO Lisaura Skladel stopped § 87(2)(b)	§ 87(2)(b)
B.POF Lisaura Skladel	Abuse: PO Lisaura Skladel searched § 87(2)(b)	§ 87(2)(b)
C.LT Neil Zuber	Abuse: Lt. Neil Zuber searched § 87(2)(b)	§ 87(2)(b)
D.LT Neil Zuber	Force: Lt. Neil Zuber hit § 87(2)(b) against a bench.	§ 87(2)(b)
E.LT Neil Zuber	Force: Lt. Neil Zuber used a chokehold against § 87(2)(b)	§ 87(2)(b)
F.LT Neil Zuber	Force: Lt. Neil Zuber used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint over the telephone with IAB on April 27, 2013 (encl. 4A-4B), generating original log number 2013-18208. It was received by the CCRB on May 3, 2013.

§ 87(2)(b) was stopped by PO Lisaura Skladel at approximately 11:30 p.m. on April 26, 2013 in the vicinity of § 87(2)(b) § in Queens. The following allegations resulted:

- **Allegation A – Abuse of Authority: PO Lisaura Skladel stopped** § 87(2)(b) § 87(2)(g)
- **Allegation B – Abuse of Authority: PO Lisaura Skladel searched** § 87(2)(b) § 87(2)(g)
- **Allegation C – Abuse of Authority: Lt. Neil Zuber searched** § 87(2)(b) § 87(2)(g)
- **Allegation D – Force: Lt. Neil Zuber hit** § 87(2)(b) **against a bench.**
- **Allegation E – Force: Lt. Neil Zuber used a chokehold against** § 87(2)(b)
- **Allegation F – Force: Lt. Neil Zuber used physical force against** § 87(2)(b) § 87(2)(g)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) *a 5'5" tall, 125 lb. black man with black hair and brown eyes, was* § 87(2)(b) *old at the time of the incident.* § 87(2)(b)

Medical Records Statement

§ 87(2)(b) provided a statement to a nurse, at § 87(2)(b) on § 87(2)(b) (encl. 21A-21Q). He stated that he had left shoulder pain and left thumb pain. He had an altercation with somebody and fell to the ground. He was unable to lift his left arm up.

IAB Statement

§ 87(2)(b) provided a telephone statement to IAB on April 27, 2013. § 87(2)(g)

CCRB Statement

§ 87(2)(b) provided statements to the CCRB pertaining to the incident over the telephone on May 8, 2013 (encl. 6A) and in person on May 14, 2013 (encl. 6B-6D). § 87(2)(g)

At approximately 11:15 p.m. on April 26, 2013, § 87(2)(b) walked from his home, located at § 87(2)(b) § in Queens, to his grandmother's apartment, located at § 87(2)(b) §, approximately one block away. § 87(2)(b) did not speak to anyone on the way. He was

carrying a cellphone.

When § 87(2)(b) reached his grandmother's building, he saw his cousin, § 87(2)(b) and an individual who he identified as "§ 87(2)(b) who was identified by the investigation as § 87(2)(b) speaking with three police officers. One of the officers, a 5'9"-5'11" tall, 25 to 30-year-old, 180 lb. Hispanic male with black hair, identified by the investigation as PO Kelvin Lopez. The second, a short, 5'3"-5'4" tall, 110-120 lb. Hispanic female with long black hair, brown eyes, and an accent, identified by the investigation as PO Norma Vera. The third officer, a 5'11" tall, 180-200 lb., brown-skinned male of an unknown race in his 30s or 40s with short black hair, identified by the investigation as PO Ganesh Persaud.

§ 87(2)(b) stopped approximately 20 feet away from § 87(2)(b) § 87(2)(b) and the officers, by the § 87(2)(b). He did not have any interaction with his cousin or the officers. There were about five other people outside at the time, but § 87(2)(b) did not know any of them.

§ 87(2)(b) began talking on the phone. While he was on the phone, another officer, a 5'4" tall, 115-120 lb., 30-year-old Hispanic female with black hair and brown eyes, who he identified by name from his desk appearance ticket as PO Lisaura Skladel, came up to § 87(2)(b) and put both of her hands in the pockets of his sweater as he turned around. § 87(2)(b) did not see PO Skladel before she reached in his pockets. He hung up the phone and said, "What are you doing?" PO Skladel replied, "Give me the phone." She then grabbed § 87(2)(b)'s right wrist in an attempt to get his phone.

§ 87(2)(b) looked to the right and observed another officer, Lt. Neil Zuber, a 6'1" tall, 200 lb. white male in her 30s or 40s with dirty blond hair, a green Nike sweater, and blue jeans, whose name his mother obtained at the stationhouse, running towards him. Lt. Zuber grabbed § 87(2)(b) by the front of his neck with his right hand and slammed him on a bench. PO Skladel was still holding his arm. Lt. Zuber held his hand on § 87(2)(b)'s neck for a few seconds, restricting § 87(2)(b)'s breathing. He told § 87(2)(b) to let go of the phone, and he complied. Lt. Zuber then punched him once in his right ribs.

Another unidentified male officer, who § 87(2)(b) did not see, and Lt. Zuber pulled his arms behind his back and handcuffed him. (The other officer was determined by the investigation to be PO Skladel.) Lt. Zuber lifted § 87(2)(b) up from the bench. He positioned himself in front of § 87(2)(b)'s feet and pushed him in the back, causing § 87(2)(b) to trip over Lt. Zuber's feet and land on the ground on his chest. Lt. Zuber picked § 87(2)(b) up by the back of his sweater and jeans, and he threw § 87(2)(b) back on the bench. § 87(2)(b) landed on his stomach. When he looked up, there were approximately ten police officers around him. An unidentified officer, who § 87(2)(b) described as a chubby, 6' tall, 200 lb., white male in his 30s or 40s, wearing a black sweatshirt, asked him if he was okay. The officers then asked him, "Where's the weed at?" § 87(2)(b) told them he did not have any weed.

PO Persaud, who remained with § 87(2)(b) while this was going on, came over and brought § 87(2)(b) to a marked van. PO Lopez and PO Vera sat in the second row of the van. PO Persaud was the driver. § 87(2)(b) was brought to the van after him.

PO Persaud drove the van around the block, where they waited for approximately an hour and a half before going to the stationhouse at around 12:30 a.m. § 87(2)(b) repeatedly asked the officers why he was being arrested, but they never informed him.

§ 87(2)(b) was released with a desk appearance ticket at approximately 4:25 a.m. the following day. When he woke up in the morning, his shoulder felt stiff, so he went to § 87(2)(b) around § 87(2)(b). He sustained a sprained shoulder and a sprained wrist. He believed these injuries occurred when he was being handcuffed.

§ 87(2)(b) denied making any motions with his body or arms during the incident. He denied resisting or swinging at any officers.

Witness: § 87(2)(b)

- § 87(2)(b) a 5'8" tall, 232 lb. black man with brown hair and brown eyes, was § 87(2)(b) old at the time of the incident. He was employed as a § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on May 14, 2013 (encl. 7A-7C).

At approximately 11:15 p.m. on April 26, 2013, § 87(2)(b) and an individual who § 87(2)(b) knew as "§ 87(2)(b)" who was identified by the investigation as § 87(2)(b) stood around talking by the entrance to the walkway of § 87(2)(b) in Queens. Three police officers made a right onto § 87(2)(b), pulled up next to them, and exited their vehicle, a 15-passenger police van. One of the officers, who § 87(2)(b) described as a 5'11" tall, 190 lb., Indian male in his early 40s with salt and pepper hair, was identified by the investigation as PO Persaud. The second, a short, 5'8" tall, 200 lb., 36-37 year old Hispanic male with black hair, was identified by the investigation as PO Lopez. The third, who § 87(2)(b) could not describe, was identified by the investigation as PO Vera.

There were two cups containing liquor on a nearby gate, so the officers asked if they were drinking. They replied, "No." The officers requested their identification, and they complied. The officers returned their identification, and they began conversing.

Approximately five or ten minutes after the officers pulled up, § 87(2)(b) arrived and began talking on his phone. He was approximately 15 feet away from where § 87(2)(b) and § 87(2)(b) were standing. § 87(2)(b) assumed that § 87(2)(b) was going to his grandmother's apartment since she lives at the location. The entrance to her building is located approximately 20 feet away from the walkway.

While § 87(2)(b) was on the phone, another officer, PO Skladel, who § 87(2)(b) described as a 5'7" tall, 115-125 lb., 23-26 year old Black or Indian female with long hair, grabbed § 87(2)(b)'s arm and said either, "Give me your phone," or, "Get off the phone." § 87(2)(b) did not see where PO Skladel had come from. He stated that § 87(2)(b) had not seen her either. As § 87(2)(b) turned around, presumably to figure out who had grabbed him, he said, "Excuse me?" PO Skladel repeated, "Give me your phone. Give me your phone," and she continued to grab § 87(2)(b). § 87(2)(b) replied, "Excuse me, why do you want my phone? Why are you grabbing me?" PO Skladel attempted to push § 87(2)(b) against a bench with her right arm, while § 87(2)(b) continued to ask what he had done. He did not make any movements with his arms. He held his phone in one hand and had his other arm at his side.

Lt. Zuber, who was walking from behind PO Skladel with several other officers, began running towards § 87(2)(b). He grabbed him by the front of his neck with his right hand and slammed him on the bench, causing § 87(2)(b) to land in a sitting position. He asked him repeatedly, "You trying to attack her?" or, "You trying to fight her?" Lt. Zuber then choked § 87(2)(b) and pushed his head onto the back of the bench. He held his neck for a total of 30 or 40 seconds. § 87(2)(b) was trying to speak, but he was unable. All § 87(2)(b) could hear was § 87(2)(b) scream, "Help! Help!"

While Lt. Zuber choked § 87(2)(b) about five or six officers ran over and grabbed his arms. PO Persaud, PO Lopez, and PO Vera remained with § 87(2)(b) and § 87(2)(b). § 87(2)(b) did not resist. He could not move his body because the officers were holding him. They flipped him over on the bench. They then pulled him off the bench and shoved him on the ground. Lt. Zuber put his knee in § 87(2)(b)'s neck as the other officers held each of § 87(2)(b)'s arms and legs. They twisted § 87(2)(b)'s arms to place handcuffs on him. § 87(2)(b) yelled, "My arm! My arm! Please! Get them off my arm!" They picked him up and placed him on the bench. They then searched him on his legs, waist, and pockets.

PO Persaud transported § 87(2)(b) to the precinct stationhouse. § 87(2)(b) never saw § 87(2)(b) holding any cups containing liquor. The only thing he was holding was his phone.

Attempts to Contact Civilians

Five phone calls were placed to § 87(2)(b) between June 7, 2013 and August 12, 2013. His grandmother answered the phone on two of the occasions. Messages were left with her. No one answered the phone during the remaining calls. Voicemail was unavailable. Please call letters were sent on November 19, 2013 and November 20, 2013. A New York City Department of Corrections search on November 20, 2013 yielded no results for § 87(2)(b).

Six calls were placed to § 87(2)(b) at various phone numbers obtained from WhitePages and LexisNexis between June 20, 2013 and November 20, 2013. The first number was not in service. A voicemail message was left during the second call. The individual who answered the third call did not speak English. No one answered the fourth call, and no voicemail was available. Two additional calls were placed to the third phone number with a Spanish translator on November 19, 2013 and November 20, 2013. On November 20, 2013, an individual answered and stated that it was the wrong phone number. A please call letter was sent to § 87(2)(b) at the address listed on his arrest report on June 7, 2013. A final please call letter was to on November 19, 2013. A New York City Department of Corrections search on November 20, 2013 yielded no results for § 87(2)(b).

NYPD Statements:

Subject Officer: LT. NEIL ZUBER

- *Lt. Zuber, a 6'2" tall, 210 lb. white man with black hair and blue eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, Lt. Zuber worked between 4:15 p.m. and 1 a.m. He was the special operations lieutenant for PSA 9. He was dressed in plain clothes and was assigned to unmarked RMP # § 87(2)(b) which is a gray Ford Fusion.*

Memo Book (encl. 8A-8C)

At 10:30 p.m., Lt. Zuber conducted an operation in the Ravenswood area. He verified Arrest # § 87(2)(b) by PO Ricardo Moreno; § 87(2)(b) by PO Anthony Coppola; § 87(2)(b) by PO Michael Scally; § 87(2)(b) by PO Lisaura Skladel; § 87(2)(b) by PO Kelvin Lopez for § 87(2)(b); and § 87(2)(b) by PO Ganesh Persaud.

CCRB Statement

Lt. Zuber was interviewed at the CCRB on July 10, 2013 (encl. 8D-8F).

At approximately 11:30 p.m. on April 26, 2013, Lt. Zuber was conducting a joint operation with special operations teams from PSA 9 and the 114th Precinct at Queensbridge Housing in Queens. At the time of the incident, officers had targeted one of the courtyards in Queensbridge Housing. There are several different entrances to the courtyard, so the officers broke up into smaller teams of two or three officers and went in different entrances to prevent people from leaving.

Lt. Zuber walked in from a separate entrance from PO Skladel. At some point, he noticed that officers had stopped a group of approximately five or six people. He began making his way over to where they were standing. He did not know the reason for the stop at the time, but he later found out that they were in possession of open containers and were congregating on a public

sidewalk. Lt. Zuber did not remember which officers or civilians were part of this group. He did not indicate how he learned this information.

As Lt. Zuber was walking over, he noticed PO Skladel attempting to stop § 87(2)(b). From where he was standing, approximately 15 feet from § 87(2)(b) and PO Skladel, he observed PO Skladel moving to intercept § 87(2)(b). § 87(2)(b) tried to walk past her. Lt. Zuber could not hear what PO Skladel was saying. He continued to walk towards them. He then saw PO Skladel reach out to physically stop § 87(2)(b). § 87(2)(b) reared back and pulled his hand away from her. § 87(2)(b) was holding something in his hand, which Lt. Zuber later determined to be a cellphone. Lt. Zuber assisted PO Skladel in handcuffing § 87(2)(b).

At this point, § 87(2)(b) began acting belligerent. He was yelling and would not let go of his phone. Lt. Zuber eventually took it from him. He did not specify how he did this. Although § 87(2)(b) was not flailing his arms, he was making it difficult for the officers to handcuff him. Lt. Zuber had to turn § 87(2)(b) around because he would not turn around on his own. He later stated that § 87(2)(b) was seated on a bench when the officers attempted to handcuff him and that he and PO Skladel had to lean him forward onto his stomach on the sidewalk. § 87(2)(b)'s back was facing the bench. Lt. Zuber guided him to it, and he sat down. He stated that § 87(2)(b) was handcuffed on the ground, and then the officers picked him back up and put him on the bench. The officers did not use any force to seat him on the bench.

Lt. Zuber stated that § 87(2)(b) appeared intoxicated because he did not seem to comprehend that he had to let go of his phone and because he did not seem to acknowledge that there were uniformed officers there. He did not indicate any other factors that made him believe § 87(2)(b) was intoxicated. He was arrested for disorderly conduct and an open container. Lt. Zuber did not actually see § 87(2)(b) with the other group of people that was stopped. PO Skladel informed him of this later. He did not recall if PO Skladel ever told him whether she saw § 87(2)(b) with an open container.

There were officers from conditions, anti-crime, Queensbridge Task Force, and the 114th Precinct, but he did not remember any of their names. Another arrest was made among the group of people stopped. A summons was also issued to someone from the same group. While Lt. Zuber and PO Skladel were handcuffing § 87(2)(b), one of the individuals in the group was telling him to relax and “do what they tell you.” This individual stood about 20 or 30 yards away.

After § 87(2)(b) was handcuffed, Lt. Zuber searched him for weapons and other contraband. He did not find any contraband on him. He did not see PO Skladel put her hands in § 87(2)(b)'s pockets prior to handcuffing him. After § 87(2)(b) was handcuffed, he was transported to the 114th Precinct stationhouse. Lt. Zuber did not recall who transported him.

Lt. Zuber denied using any force except for bringing § 87(2)(b)'s hands together to handcuff him. He did not see any other officers use force. He denied grabbing § 87(2)(b)'s neck, choking him, punching him in the ribs, throwing him on a bench, or pushing or tripping § 87(2)(b).

Subject Officer: PO LISAURA SKLADEL

- *PO Skladel, a 5'7" tall, 150 lb. Hispanic woman with black hair and brown eyes, was § 87(2)(b) years old at the time of the incident.*
- *On the day of the incident, PO Skladel, PSA 9, worked between 4:30 p.m. and 1:05 a.m. She was assigned to special operations with Sgt. Charles Garra. She was dressed in uniform and was working in marked vehicle number 9097.*

Memo Book (encl. 9A-9D)

At 11:25 p.m., one male was stopped in front of § 87(2)(b). § 87(2)(b) a 5'3" tall, 120 lb. black male with New York State ID # § 87(2)(b) (Exp. § 87(2)(b)), was born on § 87(2)(b). At 11:30 p.m., one male was arrested for § 87(2)(b).

§ 87(2)(b) When stopped, he started walking away from the police officer. When he was approached again, he was told to get off the phone until the police officer was done. § 87(2)(b) started yelling at the officer, causing public alarm and refused to hang up the phone. He was also arrested for § 87(2)(b) At 12:10 a.m., the male was transported by PO Persaud and PO Vera, van 9336.

§ 87(2)(b) **Arrest Report (encl. 9E-9G)**

At 11:30 p.m. on April 26, 2013, in the vicinity of § 87(2)(b) § 87(2)(b) in Queens, § 87(2)(b) was observed consuming an alcoholic drink (375 ml bottle of Hennessy) in a public place in public view. Upon approaching § 87(2)(b) he was observed causing a public inconvenience, annoyance, and alarm by acting in a loud and boisterous manner. He was arrested for § 87(2)(b)

CCRB Statement

PO Skladel was interviewed at the CCRB on July 10, 2013 (encl. 9H-9J).

At approximately 11:25 p.m. on April 26, 2013, PO Skladel walked into the courtyard adjacent to § 87(2)(b) § 87(2)(b) in Queens. She was doing a special operation that day in which she was instructed to stop people in the courtyard for violations. She entered the courtyard with Sgt. Garra through one of four entrances. There were other officers inside, including Lt. Zuber.

When PO Skladel walked in, Sgt. Garra walked in another direction. PO Skladel observed two officers, whose names she did not know, with approximately four or five males stopped. She stated that she knew they were stopped because the operation they were doing was only to stop people for violations they observed. She saw one of the males hand his identification to the officers. At the time, she did not know the reason for their stop, but she later learned that they had alcohol in public.

PO Skladel noticed § 87(2)(b) who was initially standing behind the officers, begin to walk away without the officers' knowledge. He was playing on his phone at the time and heading in the direction of PO Skladel. PO Skladel approached § 87(2)(b) when he was about 20 or 25 feet away from the other officers. She said to him, "Listen, the officers stopped you over there in that group. Why don't you go back there?" § 87(2)(b) replied, "No, I wasn't in that group." PO Skladel said, "I just saw you walk away from there." She then told him, "Get off your phone and start walking over there again." § 87(2)(b) replied, "Why should I get off my phone?" PO Skladel responded, "Just get off the phone for now until we're done with you."

§ 87(2)(b) refused to get off his phone, so PO Skladel tried to grab it. § 87(2)(b) got mad at her. He began "flinging" his hand and said, "Don't touch me. It's my phone. You don't have to touch me." PO Skladel later stated, instead, that § 87(2)(b) attempted to put his phone in his pocket when she was instructing him to get off his phone. She told § 87(2)(b) "Get your hands out of your pocket." She stated that she did not know what was in his pocket. It was at that point § 87(2)(b) told her, "Don't touch me." PO Skladel stated that she did not know if he was going to punch her or start a fight, so she grabbed his arm and took his arm out of his pocket. She did not reach inside of his pocket.

At this point, Lt. Zuber, who was standing behind her, saw the struggle. He jumped between them and tried to stop § 87(2)(b) Both PO Skladel and Lt. Zuber put § 87(2)(b) on the ground and handcuffed him. PO Skladel stated that they did not give him any time to resist, and he did not make any movements with his body. Lt. Zuber did not trip § 87(2)(b) at this time. PO Skladel later stated that § 87(2)(b) knelt onto the ground by himself because he was trying to avoid giving PO Skladel his hand. She stated that she and Lt. Zuber handcuffed him while he was kneeling. She did not remember which of § 87(2)(b)'s arms she was holding.

Lt. Zuber and PO Skladel picked up § 87(2)(b) from the ground by the belt of his pants and

placed him on a bench. § 87(2)(b) was disorderly at this time. He was being loud and refused to listen to the officers. PO Skladel did not remember any specific statements he made, but he called his mother immediately after. She did not know if § 87(2)(b) was intoxicated.

§ 87(2)(b) was transported to the precinct stationhouse with another male who was arrested. PO Persaud and PO Vera transported him in a van. PO Skladel did not remember which other officers were around at the time. Sgt. Garra did not witness the incident.

PO Skladel never saw § 87(2)(b) with an open container, but the officer who had arrested the other male, identified by the investigation as PO Lopez, stated that the group had a bottle of Hennessey. PO Lopez told PO Skladel that he had observed § 87(2)(b) with the bottle after she arrested him. When PO Skladel asked PO Lopez why § 87(2)(b) was walking away, he told her that he did not know § 87(2)(b) had walked away.

PO Skladel did not search § 87(2)(b) prior to handcuffing him and did not use any force other than removing his hand from his pocket and placing him in handcuffs. She did not see Lt. Zuber use any other force. She denied seeing him grab § 87(2)(b) by the front of the neck, choke him, throw him on a bench, or punch him in the ribs. She did not see him trip § 87(2)(b) on the ground. § 87(2)(b) never complained of any injuries, and PO Skladel did not observe any injuries on him.

Witness Officer: PO KELVIN LOPEZ

- *PO Lopez, a 5'9" tall, 190 lb. Hispanic man with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, PO Lopez, PSA 9, worked between 5 p.m. and 1:35 a.m. He was assigned to Post 3 with PO Coppola and PO Scally. He was dressed in uniform and assigned to marked vehicle number 5741.*

Memo Book (encl. 10A-10D)

At 11:05 p.m., PO Lopez was at 36th Avenue and 10th Street. At 11:10 p.m., PO Lopez was at a joint operation at § 87(2)(b). At 11:25 p.m., a black male, § 87(2)(b) was stopped for an § 87(2)(b) in front of § 87(2)(b). At 11:40 p.m., he was arrested.

CCRB Statement

PO Lopez was interviewed at the CCRB on August 7, 2013 (encl. 10H-10I).

At approximately 11:25 p.m., PO Lopez stopped § 87(2)(b) for an open container. There were other people standing next to him when he was stopped. PO Lopez did not know if they were standing with § 87(2)(b) or simply standing near him. § 87(2)(b) was eventually arrested for an open warrant. PO Lopez did not indicate that he had stopped anyone else.

PO Lopez viewed the photograph of § 87(2)(b) taken at the CCRB during his interview. PO Lopez recognized § 87(2)(b) from seeing him at the stationhouse when he was processing § 87(2)(b)'s arrest. He did not remember seeing § 87(2)(b) before then and stated that § 87(2)(b) was not one of the individuals with § 87(2)(b).

PO Lopez did not remember which other officers were nearby. He did not recall seeing Lt. Zuber or PO Skladel. He did not recall PO Skladel ever stopping or searching an individual, and he did not see Lt. Zuber use physical force against anyone.

PO Lopez did not remember hearing § 87(2)(b) complain of any injuries at the stationhouse, and he did not see any injuries on him.

Witness Officer: PO GANESH PERSAUD

- *PO Persaud, a 5'11" tall, 185 lb. Asian man with black hair and brown eyes, was § 87(2)(b)*

old at the time of the incident.

- *On the day of the incident, PO Persaud, PSA 9, worked between 5 p.m. and 6:35 a.m. He was the operator of a post prisoner van. He was dressed in uniform and partnered with PO Vera.*

Memo Book (encl. 11A-11C)

PO Persaud did not have any entries in his memo book pertaining to the incident. At 10:05 p.m., PO Persaud was at the prisoner van post at 10th Street and 36th Avenue.

CCRB Statement

PO Persaud was interviewed at the CCRB on August 7, 2013 (encl. 11D-11E).

PO Persaud had no recollection of the incident, even after viewing § 87(2)(b)'s photograph and arrest report. He did not remember if he was ever in the vicinity of § 87(2)(b). The prisoner van post was located approximately four blocks away from the location. He did not move the van from that location.

PO Persaud did not recall if he ever came into contact with Lt. Zuber on that day. He was not familiar with PO Skladel. He never saw any female officer attempt to physically stop an individual. He did not see Lt. Zuber use force against anyone.

PO Persaud brought prisoners to the stationhouse around 12:45 a.m. He did not recall how many prisoners he transported.

Witness Officer: PO NORMA VERA

- *PO Vera, a 5' tall, 110 lb. Hispanic woman with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, PO Vera, PSA 9, worked between 5 p.m. and 2:15 a.m. She was assigned to a prisoner van post at 10th Street and 36th Avenue with PO Persaud. She was dressed in uniform and assigned to van number 9336.*

Memo Book (encl. 12A-12C)

At 11:20 p.m., PO Vera arrived at § 87(2)(b). At 11:35 p.m., two black males were placed in the prisoner van. At 11:40 p.m., PO Vera arrived at 10th Street and 36th Avenue with two male perpetrators.

CCRB Statement

PO Vera was interviewed at the CCRB on August 22, 2013 (encl. 12D-12E).

At approximately 11:20 p.m. on April 26, 2013, Lt. Zuber called PO Vera and told her to go to § 87(2)(b) in Queens to pick up two prisoners. She and PO Persaud went to the location in the prisoner van and parked approximately five or six car lengths from § 87(2)(b).

When they arrived, they observed two males handcuffed on the sidewalk. One of them was crying, and the other was calm. There was also a group of civilians stopped by other officers near the building. PO Vera did not recall which officers were there.

PO Vera did not recall if Lt. Zuber was standing with the two prisoners. She did not recall seeing PO Lopez. She was not familiar with an officer named PO Skladel. She never saw a female officer stop or search an individual, and she did not see Lt. Zuber use physical force against anyone.

The two males were placed in the prisoner van and taken to 10th Street and 36th Avenue, where they waited until they were transported to the 114th Precinct stationhouse at 1:08 a.m. In the meantime, two additional prisoners, a black male and a Hispanic female, were placed in the van.

PO Vera never learned that the two males had been arrested for an open container. She viewed § 87(2)(b)'s photograph and stated that he looked familiar, but she did not know if he was in the van on the night of the incident. She did not recognize § 87(2)(b).

Witness Officer: PO MICHAEL SCALLY

- *PO Scally, a 5'10" tall, 195 lb. white man with blond hair and blue eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, PO Scally, PSA 9, worked between 5 p.m. and 1:35 a.m. He was assigned to conditions with PO Coppola and PO Lopez. He was dressed in uniform and working in unmarked vehicle # 8302, a black Chevrolet van.*

Memo Book (encl. 13A-13D)

PO Scally did not have any memo book entries pertaining to the incident. At 11:10 p.m., PO Scally had a Queensbridge operation at 40th Avenue and 10th Street. At 11:25 p.m., two black males were stopped in front of § 87(2)(b) § 87(2)(b) for suspected criminal possession of a weapon. The factors leading to the stop were a bulge, furtive movements, and changing direction at the sight of the officers. The bulge was a cellphone. § 87(2)(b), of § 87(2)(b) § 87(2)(b) was born on § 87(2)(b). One individual was stopped by PO John Filippi.

CCRB Statement

PO Scally was interviewed at the CCRB on August 14, 2013 (encl. 13E-13F).

PO Scally did not recall the incident. At approximately 11:10 a.m., he entered the courtyard of Queensbridge Housing from an entrance on 40th Avenue and split off from his partners. He then assisted PO Filippi, who had two individuals stopped in front of § 87(2)(b) § 87(2)(b), which is on the opposite side of the housing development from where § 87(2)(b) was stopped, approximately 75 to 100 yards away. PO Scally did not see PO Lopez or PO Coppola stop any individuals. He did not see Lt. Zuber or PO Skladel on that day. He did not see any other civilians being stopped or arrested at that time, and he never saw any individuals arrested for open containers. He did not see PO Skladel stop or search an individual, and he did not see Lt. Zuber use force against anyone.

Witness Officer: PO ANTHONY COPPOLA

- *PO Coppola, a 5'11" tall, 220 lb. white man with black hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *On the day of the incident, PO Coppola, PSA 9, worked between 6 p.m. and 3:35 a.m. He was assigned to Queensbridge Housing conditions with PO Scally. He was dressed in uniform and assigned to marked van number 9336.*

Memo Book (encl. 14A-14D)

At 11:15 p.m., PO Coppola observed two females fighting in a group of about 40 youths. The group refused to disperse. At 11:20 p.m., two females, Linda Vannoy and Peguro Darin, were arrested in the rear of 40-08 Vernon Boulevard. They were transported to the prisoner van on 36th and 10th Street and 36th Avenue.

CCRB Statement

PO Coppola was interviewed at the CCRB on August 22, 2013 (encl. 14E-14F).

PO Coppola did not recall the incident. At the time § 87(2)(b) was stopped, PO Coppola was making an arrest in the vicinity of 40-08 Vernon Boulevard, which is in a separate courtyard. It is approximately one half of a city block away from § 87(2)(b) § 87(2)(b). PO Coppola never saw PO

Skladel, Lt. Zuber, or PO Lopez make any arrests. He did not see PO Skladel stop or search any individuals, and he did not see Lt. Zuber use physical force against anyone. He did not recognize § 87(2)(b) or § 87(2)(b) from their photographs.

Officers Not Interviewed

PO Ricardo Moreno, who was mentioned by Lt. Zuber in his memo book, was not interviewed. § 87(2)(g)

Medical Records (encl. 21A-21Q)

§ 87(2)(b) was treated at § 87(2)(b) in Queens on § 87(2)(b). He had x-rays taken of his left shoulder and left hand. The x-rays were normal. He was diagnosed with a sprain and strain of an unspecified site of his shoulder and upper arm.

NYPD Documents

§ 87(2)(b) Desk Appearance Ticket (encl. 15C)

§ 87(2)(b) was given a desk appearance ticket for § 87(2)(b). He was instructed to appear at Queens Criminal Court on § 87(2)(b).

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming false arrest, battery, assault, malicious prosecution, illegal search, violation of constitutional rights of privacy, and violation of constitutional right to freedom of movement in the absence of probable cause, and seeking a sum of money within the jurisdiction of the Supreme Court of the State of New York and punitive damages against the police officers as redress (encl. 17A-17C).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2A).

Subject Officer CCRB History

- Lt. Neil Zuber has been a member of the service for 11 years and there are no substantiated CCRB allegations against him (encl. 1A-1B).
- PO Lisaura Skladel has been a member of the service for 7 years and there are no substantiated CCRB allegations against her (encl. 1C).

Conclusion

Identification of Subject Officers

- § 87(2)(b) identified Lt. Zuber and PO Skladel by name during his initial complaint and each

of his subsequent statements. He provided descriptions of them, which generally matched their pedigree information. PO Skladel had a memo book entry pertaining to the incident, and both officers confirmed their involvement during their CCRB interviews. § 87(2)(g)

Allegations Not Pleaded

- § 87(2)(g)

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO Lisaura Skladel stopped § 87(2)(b)

It is undisputed that PO Skladel stopped § 87(2)(b) and eventually arrested him for § 87(2)(b).

§ 87(2)(b) stated that he was going to § 87(2)(b), when he observed § 87(2)(b) and § 87(2)(b) speaking with PO Lopez, PO Persaud, and PO Vera. § 87(2)(b) stopped approximately 20 feet away from them and began talking on his cellphone. He was not carrying anything else with him.

§ 87(2)(b) corroborated § 87(2)(b)'s account, adding that the officers had stopped because there were two cups containing liquor on a nearby gate and that § 87(2)(b) arrived approximately five or ten minutes after the officers initially stopped them.

PO Skladel stated that when she walked into the courtyard of Queensbridge Housing, she saw approximately four or five males stopped by officers. She believed the males were stopped because the officers were part of an operation to stop people for violations. One of the males handed his identification to the officers. She did not know the reason for their stop at the time, but she later learned that they had alcohol in public. PO Skladel noticed that § 87(2)(b) who was initially standing behind the officers, began to walk away while playing on his phone. PO Skladel approached him when he was about 20 or 25 feet away from the officers and told him to go back. § 87(2)(b) said he was not part of the group, but PO Skladel insisted that she saw him walk away from them. She then told him to get off his phone and eventually removed his hand from his pocket. PO Skladel never saw him with an open container.

When Lt. Zuber walked into the courtyard, he noticed that officers had stopped a group of approximately five or six people. He did not know the reason for the stop at the time, but he later learned they were in possession of open containers and were congregating on a public sidewalk. As he walked over to the group, he saw PO Skladel attempt to stop § 87(2)(b). § 87(2)(b) tried to walk past her. PO Skladel then reached out to physically stop § 87(2)(b).

PO Lopez never saw § 87(2)(b) until he arrived at the stationhouse later in the night. § 87(2)(b) was not part of the group that was standing near § 87(2)(b) the individual he arrested for § 87(2)(b) at the same location.

An officer may forcibly stop a person only when he has reasonable suspicion to believe that such person has committed, is committed, or is about to commit a crime. *People v. Debour*, 40 N.Y.2d 210 (1976) (encl. 0A-0K). A person may not be stopped merely because he was seen in the presence of someone the police have probable cause to arrest. *People v. McLoyd*, 946 N.Y.S.2d 829 (2012 – Sup. Ct. NY Cty) (encl. 0P-0S).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Abuse of Authority: PO Lisaura Skladel searched § 87(2)(b)

§ 87(2)(b) stated that, as he spoke on his phone, PO Skladel reached her hands into the pockets of his sweater. § 87(2)(b) did not corroborate this statement. Instead, he stated that § 87(2)(b) was searched after he was handcuffed.

PO Skladel stated that she pulled § 87(2)(b)'s arm out of his pocket, but she denied ever placing her hands inside. Lt. Zuber did not see PO Skladel search § 87(2)(b). He stated that he searched § 87(2)(b) after he was handcuffed.

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: Lt. Neil Zuber searched § 87(2)(b)

It is undisputed that Lt. Zuber searched § 87(2)(b) after he was in handcuffs. Although § 87(2)(b) did not make this allegation, § 87(2)(b) stated that officers searched § 87(2)(b) on his legs, waist, and pockets. Lt. Zuber admitted to searching § 87(2)(b) incident to his arrest for § 87(2)(b).

Lt. Zuber stated that § 87(2)(b) was “belligerent” during the incident. He was yelling and would not let go of his phone. PO Skladel also stated that he was being loud and causing public alarm. Neither Lt. Zuber nor PO Skladel could describe any specific statements he made besides asking why he had to get off his phone and telling PO Skladel not to touch him. Both Lt. Zuber and PO Skladel stated that he made it difficult for them to handcuff him by refusing to give his hands, but they denied that he was ever flailing his arms while being handcuffed. Neither of them articulated that § 87(2)(b) had drawn a crowd.

§ 87(2)(g)

Patrol Guide section 208-03 (encl. 0T-OFF) states that an officer may conduct a field frisk/search after an arrest has been effected and a prisoner has been handcuffed.

Under Penal Law § 240.20 (2) (encl. 0GG), a person commits disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he makes unreasonable noise.

The mere expression that one feels aggrieved by the police – even when uttered in a loud voice – cannot constitute an offense. People v. Square, 872 N.Y.S.2d 693 (2008) (encl. 0P-OS).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Force: Lt. Neil Zuber hit § 87(2)(b) against a bench.

Allegation E – Force: Lt. Neil Zuber used a chokehold against § 87(2)(b)

Allegation F – Force: Lt. Neil Zuber used physical force against § 87(2)(b)

§ 87(2)(b) stated that after he was stopped by PO Skladel, Lt. Zuber ran over to him and grabbed him by the front of his neck. He slammed him onto a bench and held his hand on his neck for several seconds, restricting § 87(2)(b)'s breathing. He then punched § 87(2)(b) in the ribs. Lt. Zuber and another officer handcuffed § 87(2)(b). Lt. Zuber then picked him up from the bench and tripped him onto the ground, causing him to land on his chest. Lt. Zuber picked § 87(2)(b) up again by the back of his sweater and jeans and threw him back on the bench, causing him to land on his stomach. § 87(2)(b) had no injuries from this use of force.

§ 87(2)(b) corroborated all of the alleged force except for the punch.

Lt. Zuber stated that § 87(2)(b) was making it difficult to handcuff him, so he had to turn § 87(2)(b) around. He later stated that § 87(2)(b) was seated on a bench when the officers were attempting to handcuff him and that he and PO Skladel leaned him forward onto his stomach on the sidewalk. § 87(2)(b) was handcuffed on the ground. The officers then picked him back up and put him on the bench. The officers did not use any force to seat him on the bench. Lt. Zuber denied using any of the alleged physical force against § 87(2)(b).

PO Skladel initially stated that she and Lt. Zuber put § 87(2)(b) on the ground to handcuff him. She later stated that § 87(2)(b) kneeled onto the ground by himself because he was trying to avoid giving PO Skladel his hand. She and Lt. Zuber handcuffed him while he was kneeling. Lt. Zuber and PO Skladel then picked up § 87(2)(b) from the ground by the belt of his pants and placed him on a bench. She denied seeing Lt. Zuber use any of the alleged physical force.

§ 87(2)(g)

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date